

Notice of Allowability

Application No.

09/927,868

Examiner

Jocelyn Greimel

Applicant(s)

HOWORKA, EDWARD R.

Art Unit

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/26/07.
2. ☒ The allowed claim(s) is/are 1-10.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

This communication is in response to Applicant's Amendments and Remarks filed 26 September 2007 and the Information Disclosure Statement filed 26 September 2007.

Status of Claims

Claims 1-10 are currently pending. Claim 1 is an independent claim. Claims 1-4 and 9 were previously amended. Claims 1-10 are currently amended.

Information Disclosure Statement

The Information Disclosure Statement (IDS) filed by Applicant on 26 September 2007 has been reviewed. Additionally, as per Applicant's request, related Application 09/707,824 has been reviewed. The Examiner would like to note that of the references cited in the IDS – the Howorka reference is a related priority document from which the current application gets its priority date; the Buist, Jain, and May references do not have priority over Applicant's currently pending application; and Lupien does have an earlier filing date but Applicant's current application is patentable over this reference as detailed below in the Reasons for Allowance. Additionally, related application 09/707,824 has been reviewed and there is no double patenting issue.

Allowable Subject Matter

Claims 1-10 are allowed, subject to an Examiner's amendment described below. An Examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee. Authorization for this Examiner's amendment was given in by Attorney Michael Scheer (Reg. No. 34,425) on 21 December 2007.

Examiner's Amendment

Please amend claims 1-10:

1. (Currently amended) A process for notifying a market maker in a computerized trading system that his quote being a maker's quote is subject to being accepted by another trading partner using the computerized trading system, and

Wherein the quotes are for a particular financial instrument or other commodity that are selectively made available from the market maker;

Wherein the market maker is an institution or an individual trader whose open offers are available to other trading partners using the computerized trading system, the process comprising:

Determining when a predetermined percentage of available trading partners in the computerized trading system are permitted to accept the market maker's quote,

Wherein the predetermined percentage is more than one and less than all of the trading partners using the computerized trading system with which the market maker has bilateral credit; and

Informing the market maker via the computerized trading system screen and/or components this his quote can be accepted by the predetermined percentage of trading partners using the computerized trading system with which the market maker has bilateral credit.

2. (Currently amended) The process of claim 1, wherein the market maker is visually informed that his quote can be accepted by the predetermined percentage of trading partners using the computerized trading system with which the market maker has bilateral credit.

3. (Currently amended) The process of claim 1, wherein the market maker is audibly informed that his quote can be accepted by the predetermined percentage of trading partners using the computerized trading system with which the market maker has bilateral credit.

4. (Currently amended) The process of claim 1, wherein the market maker is both visually and audibly informed that his quote can be accepted by the predetermined percentage of trading partners using the computerized trading system with which the market maker has bilateral credit.

5. (Currently amended) The process of claim 1, wherein the trading partner using the computerized trading system is only permitted to accept the market maker's quote if there is sufficient bilateral credit between the market maker and the trading partner using the computerized trading system.

6. (Currently amended) The process of claim 1, wherein a trading partner using the computerized trading system is only permitted to accept the market maker's quote if there is sufficient bilateral credit between the market maker and the trading partner and the maker's quote is the best available to the trading partner.

7. (Currently amended) The process of claim 1, wherein the trading partner is only permitted to accept the market maker's quote if there is sufficient bilateral credit between the market maker and the trading partner and the market maker's quote is both the best available to the trading partner and is earlier in time to any other quote available to the trading partner at the same price.

8. (Currently amended) The process of claim 1, wherein the predetermined percentage is at least 25%.

9. (Currently amended) The process of claim 1, wherein the market maker is informed that his quote can be accepted by the predetermined percentage of trading partners by providing the market maker with a quantitative indication of the percentage of trading partners who can accept his quote.

10. (Currently amended) The process of claim 9, wherein the quantitative indication is in the form of a graph.

Reasons for Allowance

1. The closest prior art that the Examiner has been able to locate is Tuck et al (US Patent No. 6,115,698). Also, of note is Lupien et al. (US Patent No. 5,101,353) cited in Applicant's most recent IDS submission.

2. Tuck relates to a computerized method of trading electronic energy. The system allows for energy to be traded among connected parties such as utility companies. Buy and sell offers

can be communicated to other parties and transactions can be completed. Lupien is an automated system for managing one or more large investor portfolios. The systems attempts to maintain predetermined portfolio objectives by creating and executing buy and sell orders on securities markets between users of the system and external markets.

3. Applicant's proposed invention relates to a process for notifying a maker in a computerized trading environment that their quote is subject to be accepted by another trader using the system. The system determines a percentage of traders that have bilateral credit with the quote maker and alerts the quote maker of this percentage.

4. While there are similarities between the Tuck and Lupien and the proposed invention, there are clear patentable distinctions. Specifically, Tuck only shows the viewer the number of viewers for which a feasible contract path exists. That is the viewer sees only those suppliers who have enough energy to complete a contract for the necessary amount of energy and does not discuss bilateral credit among the parties. The viewer is not alerted to a percentage of suppliers who could fulfill the contract. Lupien does display a percentage (see Figure 2, col. 8, lines 6+). However, this percentage is an indication to the quote maker what percentage of his orders could be fulfilled and at what cost should he not insist on the original price quote.

5. Finally, the Examiner would like to note that there is no motivation in Tuck and/or Lupien to create a system for quote making in which a percentage of potential acceptors of the offer is presented and the quote maker is alerted to the percentage, as described by Applicant. While the references disclose some elements of the proposed claimed invention, the modifications to Tuck and/or Lupien that would be required to achieve Applicant's method and system, assuming such missing elements could be located in the prior art, could only be

motivated by facts and suggestions deduced from impermissibly referring to Applicant's disclosure in hindsight.

6. The following is a formal statement of the Examiner's reasons for allowance:

Claim 1 is allowed because the best prior art of record, Tuck, alone or in combination with Lupien, neither discloses nor fairly suggests the limitations, in a method, system and computer readable medium, for notifying a market maker in a computerized trading system that his quote being a maker's quote is subject to being accepted by another trading partner using the computerized trading system, and:

Wherein the quotes are for a particular financial instrument or other commodity that are selectively made available from the market maker;

Wherein the market maker is an institution or an individual trader whose open offers are available to other trading partners using the computerized trading system, the process comprising:

Determining when a predetermined percentage of available trading partners in the computerized trading system are permitted to accept the market maker's quote, wherein the predetermined percentage is more than one and less than all of the trading partners using the computerized trading system with which the market maker has bilateral credit; and

Informing the market maker via the computerized trading system screen and/or components this his quote can be accepted by the predetermined percentage of trading partners using the computerized trading system with which the market maker has bilateral credit.

Claims 2-10 are also allowed for the same reasons discussed supra, in that they are dependent on allowed claim 1.

7. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jocelyn Greimel whose telephone number is (571) 272-3734. The examiner can normally be reached on Monday - Friday 8:30 AM - 4:30 PM EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jocelyn Greimel
Examiner, Art Unit 3693
December 3, 2007

 1/3/08
JAMES A. KRAMER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600